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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,884	03/15/2004	Jack K. Zhang	52579-113195	1954
23644 7590 11/02/2011 BARNES & THORNBURG LLP P.O. Box 2786 CHICAGO, IL 60690-2786				
EXAMINER				
TRAN, CONGVAN				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
11/02/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

Office Action Summary**Application No.**

10/800,884

Applicant(s)

ZHANG ET AL.

Examiner

CONGVAN TRAN

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-12 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-12 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-501)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date ____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1-7 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Fuzell-Casey et al. (2004/0039661).

Regarding claim 1, Fuzell-Casey discloses a list-based selection system, comprising: storing data in a portable device representing locations within the market research (see abstract, fig.1, element 112, fig.3, elements 100, 328, 310, paragraphs [0007], [0030]); inputting transmitter location data in the portable device representing selected locations of the wireless transmitters relative to the research area (see abstract, figs.1-2, elements 100, 210/220, paragraphs [0007] and its description); and associating transmitter representative data with respective transmitter location data in the portable device to produce data that maps locations of the wireless transmitters with the associated transmitter representative data, wherein said transmitter representative

data comprises information regarding at least a part of the exposure of the one or more market research participant to one or more commercial items in the market research area (see abstract, figs.3-4, elements 100, 328, 410).

Regarding claim 2, Fuzell-Casey further discloses the research area comprises an interior of a commercial establishment (see abstract, paragraph [0001]).

Regarding claim 3, Fuzell-Casey discloses a list-based selection system, comprising: a portable device storing location data representing locations within a research area relevant to the market research (see abstract, fig.1, fig.4, elements 100, 410, paragraph [0007] and its description); and a processor within the portable device operative to associate the location data with data representing respective wireless transmitters positioned at the locations to produce data for mapping the locations of wireless transmitters with the data representing the respective wireless transmitters, wherein the data representing the respective wireless transmitters comprises information regarding at least a part of the exposure of one or more market research participants of one or more commercial items in the market research area (see abstract, figs.1-2, elements 100, 210/220, paragraphs [0007], figs.3-4, elements 100, 328, 410 paragraphs [0030-0040] and its description).

Regarding claim 4, Fuzell-Casey further discloses an interactive display coupled with the processor, the processor being operative to control the interactive display to display a layout map representing the research area, the system further comprising a user interface coupled with the processor to input transmitter data representing a wireless transmitter, the processor being operative to control the interactive display to

display transmitter-representative data representing the wireless display on the layout map, the interactive display being operative to receive data representing repositioning of the transmitter-representative data on the layout map by a user and providing the location data, the interactive display being operative to supply the location data to the processor (see abstract, figs.1, elements 110, 116, figs.3-4, elements 100, 328, 410 paragraph [0030-0040] and its description).

Regarding claim 5, Fuzell-Casey discloses a list-based selection system, comprising: providing a layout map to a portable device including location data representing a plurality of locations within the market research area (see abstract, figs.1-2, elements 100, 210/220, fig.4, elements 100, 410, paragraphs [0007], [0030-0040] and its description); providing transmitter data to the portable device representing respective ones of the wireless transmitters, wherein the transmitter data comprises information regarding at least a part of the exposure of the one or more market research participants to one or more commercial items in the market research area (see abstract, figs. 1-2, elements 100, 210/220, paragraphs [0007], and its description); and associating the transmitter data with the location data in the portable device to produce data mapping the locations of the wireless transmitters with the transmitter data (see abstract, figs.1-2, elements 100, 210/220, figs.3-4, elements 100, 410, paragraphs [0007], [0030-0040] and its description).

Regarding claims 6-7 and 9, Fuzell-Casey further discloses providing transmitter data comprises receiving the transmitter data in a portable device (see figs.1-2, element 100, 118, 220 and its description).

Regarding claim 10-12, Fuzell-Casey further discloses receiving the layout map including the database in the portable device (see abstract, fig.1, elements 100, 111, paragraphs [0007], figs.3-4, elements 100, 328, 410 paragraphs [0030-0040] and its description).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable Fuzell-Casey et al. (2004/0039661).

Regarding claim 8, the receiving the transmitter data (see fig.1, element 110). Except for comprising scanning indicia on the wireless transmitters the Examiner takes Official notice that the feature is structurally integrated with communication device is notoriously well known in the art in order to provide the convenient of using the communication devices to user in propose of tracking the location.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully

consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. SEE MPEP 2141.02 [R-5] VI. PRIOR ART MUST BE CONSIDERED IN ITS ENTIRETY, INCLUDING DISCLOSURES THAT TEACH AWAY FROM THE CLAIMS: A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) In re Fulton, 391 F.3d 1195, 1201,73 USPQ2d 1141, 1146 (Fed. Cir. 2004). >See also MPEP §2123.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CongVan Tran whose telephone number is 571-272-7871. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/CongVan Tran/
Primary Examiner, Art Unit 2617